

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MOSHEN MOHAMED MUSAED SAID, et al.,

Plaintiffs,

v.

ALBERTO R. GONZALES, et al.,

Defendants.

NO. C06-986P

ORDER ON PLAINTIFFS' MOTION
FOR LEAVE TO AMEND
COMPLAINT

This matter comes before the Court on Plaintiffs' motion for leave to amend their complaint. (Dkt. No. 43). Plaintiffs seek to add allegations concerning Freedom of Information Act (FOIA) requests that were made after their original complaint was filed. Having reviewed the materials filed by the parties, the Court GRANTS Plaintiffs' motion for the reasons stated below.

As Defendants note, Plaintiffs' motion should be regarded as a motion under Fed. R. Civ. P. 15(d) to supplement their complaint to add allegations regarding events that occurred after their complaint was filed. Rule 15(d) "is a tool of judicial economy and convenience" and "[i]ts use is therefore favored." Keith v. Volpe, 858 F.2d 467, 473 (9th Cir. 1988). Supplemental pleadings "ought to be allowed as of course, unless some particular reason for disallowing them appears, though the court has the unquestioned right to impose terms upon their allowance when fairness appears to require them." Id. (quoting New Amsterdam Casualty Co. v. Waller, 323 F.2d 20, 28-29 (4th Cir. 1963)). Courts "liberally construe Rule 15(d) absent a showing of prejudice." Keith, 858 F.2d at 475.

1 Defendants have not argued that they would be prejudiced if Plaintiffs' motion is granted.
2 However, Defendants suggest any new FOIA claims would be premature because Plaintiffs have not
3 exhausted their administrative remedies. Indeed, Defendants maintain that all of Plaintiffs' FOIA
4 claims – including those pleaded in the original complaint – are subject to dismissal for failure to
5 exhaust administrative remedies. On the limited record before it, the Court cannot adequately evaluate
6 the merits of Defendants' arguments regarding exhaustion. If Defendants believe that Plaintiffs' FOIA
7 claims (including both the original claims and the supplemental claims) are subject to dismissal for
8 failure to exhaust administrative remedies, Defendants should file a dispositive motion directed to that
9 issue.

10 The clerk is directed to send copies of this order to all counsel of record.

11 Dated: April 20, 2007

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13 s/Marsha J. Pechman
14 Marsha J. Pechman
United States District Judge
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